

EPA-PNL-239

"The Pebble Partnership"
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To Phil North

cc

bcc

Subject Attorney General Highly Critical of EPA

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Pebble Update

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Senator Murkowski Questions Legality of EPA Actions

Alaska Senator Lisa Murkowski has expressed a high level of concern regarding the Environmental Protection Agency's (EPA) actions related to its scientific assessment of the Bristol Bay watershed. Senator Murkowski has contacted the EPA in writing regarding this matter, first in February 2011, and again most recently April 18, 2012.

Both letters raise a number of issues related to the assessment including:

- Authorizing a preemptive veto based purely on speculation and conjecture
- Legality of a preemptive veto under the 404(c) of the Clean Water Act for a hypothetical mine
- Preemptive veto of a mining project that

State of Alaska Presses EPA To Halt Assessment

The state of Alaska continues to express its strong objection to EPA actions related to the Bristol Bay watershed assessment.

In a letter dated April, 17, 2012 Attorney General Michael Geraghty addresses what is viewed as an extreme lack of consideration of the significant issues raised by the state. The letter further contends that the EPA's expansive interpretation of authority usurps and undermines the regulatory authorities of other state and federal agencies.

While EPA contends that the assessment does not relate to any specific project, the state of Alaska asks that the agency be candid and acknowledge that the assessment is essentially directed at the Pebble Mine Project. While the state of Alaska has not taken a position specific to development of the Pebble Deposit in Southwest Alaska, they vigorously defend the state's rigorous permitting process as well as the state's legal right to manage state lands.

Citing several cases of law, Geraghty again asks the EPA to reconsider its position regarding legal authority for its current actions, halt the assessment and adequately address the substantial legal concerns expressed by the state in a March 9 correspondence. [Read the state of Alaska April 17, 2012 letter.](#)

has not yet applied for a single permit. Senator Murkowski's April 2012 communication specifically draws attention to the ramifications that could occur based on the EPA's action including the practical effect of halting any development in the Bristol Bay area that might generate dredge or fill material. [Read Senator Murkowski's letter.](#)

Attorney General Calls EPA Watershed Assessment Unlawful, Premature, Capricious

In its March 9, 2012 correspondence to the Environmental Protection Agency (EPA), the state of Alaska is on record asking the EPA to cease its work on the Bristol Bay Watershed Assessment, and refrain from exercising its Section 404c authority under the Clean Water Act (CWA) in conjunction with development of the proposed Pebble Deposit until a Section 404c permit application has been submitted.

The letter, sent by Alaska Attorney General, Michael C. Geraghty, to Region X Administrator, Dennis McLerran, the state and its resource agencies - Department of Environmental Conservation (DEC), Department of Natural Resources (DNR) and the Department of Fish and Game (ADF&G), express increasing concern that neither the petition process by which the assessment has been initiated, nor EPA's process for developing a response are described in the CWA or its associated regulations.

The seven page letter and accompanying 19 pages of documentation cites conflict with multiple federal and state laws, including the Alaska Statehood Act. [Read the March 9, 2012 letter](#) from the state of Alaska Attorney General to the EPA.

EPA Dismissive Of State's Watershed Assessment Concerns

In a letter dated April 5, 2012 the Environmental Protection Agency (EPA) trivializes the state of Alaska's concerns related to the Bristol Bay watershed assessment, failing to address the state's repeated objections.

While the EPA claims that the watershed assessment is similar to other environmental assessments conducted by the EPA, the effort covers a land mass area of more than 20,000 square miles within the Nushagak and Kvichak river drainages - equivalent in size to the state of Maryland and New Jersey

respectively. The EPA plans to release its 'assessment' in early May after less than a year of study. By comparison, the Pebble Partnership's recently released [Environmental Baseline Document](#) (EBD) includes five years of scientific data related the Bristol Bay and Cook Inlet drainages collected by independent, third-party scientists. The company continues to conduct a range of EBD studies ongoing. [Read the EPA's response](#).

Handy links:

[Alaska Resource Development Council](#)
[Alaska Miners Association](#)
[United States Geological Survey](#)
[Alaska Department of Natural Resources](#)
[Alaska Division of Mining, Land and Water](#)
[Alaska Department of Fish & Game](#)
[Truth About Pebble](#)
[Alaska Resource Education](#)
[Council of Alaska Producers](#)

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